

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34580

STATE OF IDAHO,)	2008 Unpublished Opinion No. 559
)	
Plaintiff-Respondent,)	Filed: July 25, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
THOMAS HYRUM ROBINSON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Order relinquishing jurisdiction, affirmed.

Van G. Bishop, Nampa, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Thomas Hyrum Robinson was convicted of attempted lewd conduct with a minor under sixteen, Idaho Code §§ 18-1508, -306 for attempting to solicit sex with a fourteen-year-old girl over the Internet. The district court withheld judgment and placed Robinson on probation for seven years. Subsequently, Robinson admitted to violating terms of his probation by soliciting sex from another female minor. The district court revoked the withheld judgment and probation, imposed a unified fifteen-year sentence with eight years determinate, and retained jurisdiction for 180 days. At the conclusion of the retained jurisdiction program, the court relinquished jurisdiction and ordered execution of Robinson's sentence, reducing the determinate term to seven years. Robinson appeals the court's decision to relinquish jurisdiction.

The decision as to whether to place a defendant on probation or, instead, to relinquish jurisdiction is committed to the discretion of the sentencing court. *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). It follows that a decision to relinquish jurisdiction will not be disturbed on appeal except for an abuse of discretion. *State v. Chapman*,

120 Idaho 466, 472, 816 P.2d 1023, 1029 (Ct. App. 1991). The standards governing the trial court's decision and our review were explained in *State v. Merwin*, 131 Idaho 642, 962 P.2d 1026 (1998):

“Refusal to retain jurisdiction will not be deemed a ‘clear abuse of discretion’ if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under [the statute].” While a Review Committee report may influence a court’s decision to retain jurisdiction, “it is purely advisory and is in no way binding upon the court.” Idaho Code § 19-2521 sets out the criteria a court must consider when deciding whether to grant probation or impose imprisonment. . . . “A decision to deny probation will not be held to represent an abuse of discretion if the decision is consistent with [the § 19-2521] standards.”

Id. at 648-49, 962 P.2d at 1032-33 (citations omitted). The record in this case shows that the district court properly considered the information before it and acted within the bounds of its discretion in determining that probation was not appropriate. We hold that the district court did not abuse its discretion, and we therefore affirm the order relinquishing jurisdiction.